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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/719,793	11/21/2003	Edward Paul Carlin	9434	2943

27752 7590 10/10/2006

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EXAMINER

HAND, MELANIE JO

ART UNIT	PAPER NUMBER
3761	

DATE MAILED: 10/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/719,793	CARLIN, EDWARD PAUL
Examiner Melanie J. Hand	Art Unit 3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 7/17/06.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-6 and 8-12 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-6,8-12 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date _____	6) <input type="checkbox"/> Other: _____

DETAILED ACTION

Response to Arguments

Applicant's arguments with respect to claims 1, 2, 5 and 8-12 under 35 U.S.C. 102 and claims 3, 4, and 6 under 35 U.S.C. 103 have been considered but are moot in view of the new ground(s) of rejection.

Double Patenting

Examiner wishes to correct an error in the two previous Office actions. The double patenting rejection in the Office action mailed November 1, 2005 should have been in view of copending Application No.10/719,258, not 10/749,258. The terminal disclaimer correctly refers to Application No. 10/719,258.

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1, 3, 5, and 9-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Child et al (U.S. Patent No. 6,283,952).

With respect to **Claim 1**: Child teaches a tampon comprising an insertion end 12, a withdrawal end 13, a longitudinal axis and an outer surface. The tampon is comprised of compressed fibrous material wherein the outer surface is comprised of a plurality of raised portions defined by adjacent axial indentations 21. Each of said raised portions has a length dimension and a width dimension, wherein the width dimension varies as measured along the length dimension.

As can be seen in Figs. 1 and 2, the raised portions are unevenly spaced in that adjacent raised portions converge toward one another near insertion end 12.

With respect to **Claim 3**: As can be seen in Figs. 1 and 2, the largest width dimension is located in the withdrawal end 13.

With respect to **Claim 5**: As can be seen in Fig. 1, the width dimension of the raised portions varies continuously as measured along the length dimension of said raised portions.

With respect to **Claim 9**: Indentations 21 create areas of further compressed absorbent material having greater density, therefore the tampon has a varying density over a cross-section of the tampon.

With respect to **Claim 10**: Core 31 is highly compressed.

With respect to **Claims 11,12**: Withdrawal end 13 comprises withdrawal member 15 and finger indent 23.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 2, 4 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Child et al ('952).

With respect to **Claims 2,4,6:** Child teaches increased density at the central portion of the tampon to provide a firmer, denser central core. Child does not explicitly teach that the smallest width dimension is located in this central region, however it would be obvious to one of ordinary skill in the art to compress the absorbent material in this region to further enhance the firmness and integrity of the core in this region, resulting in the smallest width dimension of all of the raised portions being located in the center and the largest width dimensions being in the insertion and withdrawal ends. With respect to claim 6, such a shape for the raised portions (i.e. hourglass) would also result in an intermittently varying width dimension as measured along the length dimension of the tampon.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Child et al ('952) in view of Schoelling ('859).

With respect to **Claim 8:** Child does not teach a uniform density of fibrous material over a cross section of the tampon. The tampon taught by Schoelling has a uniform density over a cross-section. Such a uniform density ensures proper, more uniform absorption of exudates throughout the tampon, thus utilizing a greater portion of the absorbable portion of said tampon, therefore it would be obvious to one of ordinary skill in the art to modify the tampon of Child so as to have a uniform density over a cross-section of the tampon.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melanie J. Hand whose telephone number is 571-272-6464. The examiner can normally be reached on Mon-Thurs 8:00-5:30, alternate Fridays 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TATYANA ZALUKAEVA
SUPERVISORY PRIMARY EXAMINER

Melanie J Hand
Examiner
Art Unit 3761



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MJH
September 27, 2006